

**REMARKS****OBJECTIONS TO AND REJECTION OF CLAIMS 54-57**

The Office Action correctly points out that the term "SIDECAR" is a trademark. Applicant was unaware of the trademark use of this term at the time of writing this application. Applicant's use of the term is intended to embrace certain types of background applications known to those skilled in the art. There was no intent to use this term to refer to the trademarked product. Accordingly, the claims using this term have been cancelled and the term has been replaced in the specification with the more generic terminology of "background application". In view of these amendments, removal of the objection is believed appropriate. The rejections to claims 54 - 57 based on Wong et al, are now moot, since these claims were cancelled due to the trademark issue, however, it should be noted that the claims are not cancelled due to the art rejection.

**REJECTION OF CLAIMS 1-53 UNDER 35 U.S.C. §102**

Applicant's invention, in certain embodiments, relates to a personal computer system in which a background process detects that a user is entering a credit card number from the keyboard. Once this is detected, it is presumed that a credit card transaction is being carried out and the background process auto-populates the credit card and order information (e.g., in a web page) and stores a record of the transaction for the user's records to assist in tracking affinity points. It should be carefully noted that when using a personal computing device, the user could be carrying out any of thousands of possible actions including word processing, spreadsheet operations, surfing the Internet, etc. The background operation detects the entry of a credit card number or similar information and from that begins the actions described in the specification and claims. Until this point, the background operation remains operative and unobtrusive in the background. This must be carefully compared and contrasted with a point of sale (POS) device which serves the sole purpose of conducting transactions including credit card transactions. The Wong et al device is such a POS device as will be shown.

Regarding all claim rejections under section 102, it is respectfully noted that it is fundamental that all claim features and limitations must be present in a single reference

in order for the reference to support a rejection based upon lack of novelty. In the present case, there are numerous claim features and limitations that have not been fully and properly considered. By way of example, consider the following examples of limitations or features not present in the cited Wong et al reference.

Claims 1-16 call for "a general purpose personal computing device". The claims further call for "monitoring entries made on the personal computing device ... and recognizing instances of a credit card transaction in the entries made on the personal computing device". Despite the Office Action's claims to the contrary, there is no disclosure or suggestion within the bounds of Wong et al for use of a general purpose personal computing device in this manner. In Paragraph 12 of the Office Action, the Examiner cites Figure 1 of Wong et al along with column 3, lines 35 and 37-40 in support of the position that Wong et al is not limited to POS devices. Applicant respectfully traverses this position. The cited passage reads exactly as follows:

*"At the remote location, the system can be an existing DOS or Windows based POS device with a magnetic-strip reader or other input device to collect customer frequency information or, for locations without the adequate POS equipment, an external card reader with built in modem and printer may be installed." (Emphasis added)*

Clearly, even the cited passage used to support the Examiner's position is contradictory to the proposition that Wong et al suggest anything other than a POS device or at most a device that is adapted (since the location is "without adequate POS equipment" by addition of a card reader, etc., <sup>fd</sup> being used as a POS device. Moreover, the undersigned notes that Wong et al refer to POS devices at least twenty four times throughout the specification and the undersigned is unable to find any references to a personal computing device, home computer, etc. It is respectfully submitted that Wong et al teach a POS device and nothing more. There is no suggestion that detection of a credit card transaction is recognized in any sort of background operation. Rather, the equipment described by Wong et al clearly serves the sole purpose of operation as a POS device for entry of purchase transaction related information in a conventional manner. This distinction alone is adequate to defeat the current rejection and distinguish over the cited

reference.

Additionally, it is noted, that claims 1-16 call for the computer to recognize in a background process that a credit card transaction is taking place while also running a foreground process. Wong et al have no such teaching or suggestion.

Regarding the Office Action's assertion that the limitations relating to the background process are merely recitations of intended use, the undersigned respectfully traverses. The discussion of a background process in Applicant's specification and claims clearly imposes functional requirements on the operation of the invention. Moreover, the assertion that Wong et al inherently carries out a background is incorrect. While Wong et al's process for carrying out "customer loyalty and marketing analysis" could perhaps be carried out in a background process, Applicant's background process as taught and claimed is used to "monitor entries" made in a computer system in order to recognize credit card information in data that is entered. Applicant has not claimed use of a background process for carrying out a customer loyalty and marketing analysis as argued by the Examiner. Moreover, the only function known to be carried out in Wong et al's process for capturing credit card information is that of reading a credit card at a POS terminal (or analogous operation). Any assertion <sup>that</sup> this action is inherently carried out in a background operation is unsupported by Wong et al and is believed unsupportable. Reconsideration is respectfully requested.

Claim 1 has been further amended to clarify the distinctions described above and to call out the specific nature of the foreground process as well as the mechanism of the background process detecting entry of a credit card number as well as to auto-populate the web page. The amendments are believed to primarily clarify the existing language of the claims and can be properly considered after final rejection without undue burden. Applicant also notes that many of the other claim features and limitations found in the dependent claims are nowhere to be found in Wong et al. Accordingly, claims 1-16 are believed clearly allowable.

Regarding claims 17 - 30, the arguments presented above are equally applicable. In addition, claims 17 and 30 have also been amended in a manner somewhat similar to that of claim 1. Accordingly, claims 17-30 are also believed properly considered and

allowable.

Specifically regarding claims 31-38, the undersigned has reviewed the remarks in the Office Action regarding these claims and has carefully reviewed the drawings and cited passages referenced by the Examiner. It is noted that in order to establish a lack of novelty, each and every claim limitation must be present in a single reference. The undersigned finds no teaching or even suggestion that the user "grants access" to the database as called out in the claims. It would appear that the loyalty points provider or manager is in control of the database and if any entity grants access to the database, it is the provider or manager - not the user. This is a fundamental difference since the user fully controls the information and dissemination thereof versus Wong et al where the database provider or manager has no need to obtain access to the user's database. The fact that a user can "search, view and update information" as noted by the Examiner does not give the user the ability to "grant access" as required in the claims. Reconsideration is respectfully requested.

Specifically regarding claims 35 - 49, the above remarks with regard to claims 1 - 16 are applicable. Reconsideration is respectfully requested.

Specifically regarding claims 46 - 53, the above comments regarding claims 31 - 38 are equally applicable. Reconsideration is respectfully requested.

Regarding claims 31, 35, 46 and 50 and all claims dependent therefrom, although these claims distinguish over the art without amendment, the claims have been clarified by amendment to state that the granting of access to the user's database is a result of a specific request by, for example, a creditor or a loyalty point provider. This is clearly neither taught nor suggested by the cited art in which the database is controlled by the loyalty point provider who has no need to ask or receive access to the data. Reconsideration and allowance is respectfully requested.

Specifically regarding claims 3, 4, 19, 20 and 30, the Office Action is completely silent as to where the limitations added by these claims (the matching of a user entry with a stored credit card number, and the specific embodiments of a personal computing device) can be found in the cited reference. It is submitted that they cannot be found and accordingly there can clearly be no anticipation of these claims either.

In addition to the above remarks and arguments, the undersigned stands by all previously submitted arguments. Clearly, the claims as originally submitted and as amended are not anticipated by the cited reference. Accordingly, rejection in general and final rejection in particular is unwarranted. The undersigned respectfully requests entry of all amendments, removal of the finality of the rejection and allowance of all claims. In the alternative, the undersigned requests entry of the present amendment in order to place the application in better condition for appeal.

The undersigned notes that many other distinctions exist between the cited reference and the invention as originally claimed and as amended. However, in view of the clear distinctions pointed out above, further discussion of these deficiencies is believed to be unnecessary at this time; failure to address each point raised in the Office Action should accordingly not be viewed as accession to the Examiner's position. Also, no amendment made was for the purpose of narrowing the scope of any claim unless an argument has been made herein that such amendment has been made to distinguish over a particular reference or combination of references. In view of this communication, all claims are believed to be in condition for allowance and such is respectfully requested at an early date.

The undersigned respectfully requests an interview with the Examiner in the event all claims are not found allowable in view of the present response. The undersigned can be reached at the telephone number below.

Respectfully submitted,



Jerry A. Miller  
Registration No. 30,779  
Dated: 8/5/03

Please Send Correspondence to:  
Jerry A. Miller  
Miller Patent Services  
2500 Dockery Lane  
Raleigh, NC 27608  
Phone: (919) 816-9981  
Fax: (919) 816-9982

Customer Number 24337